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NO. 85-671

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1985

FRED M. PRUESSNER AND DONNA PRUESSNER, REV. A. C. WEGNER, JR., MARTIN MILLER AND EMILY MILLER, DALLAS MICHELSON AND JEAN MICHELSON, ROBERT J. CROOKS AND SUE CROOKS, AND GAIL VOSBURGH,

Petitioners,

vs.

DR. ROBERT BENTON, SUPERINTENDENT OF PUBLIC INSTRUCTION AND STATE BOARD OF PUBLIC INSTRUCTION,

Respondents.

BEST AVAILABLE COPY

BRIEF IN OPPOSITION TO THE PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF IOWA

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QUESTIONS PRESENTED

1. Whether this Court has jurisdiction to review a state supreme court decision on the ground that its construction of a state statute is "arbitrary."

2. Whether a state statute, as construed by the state supreme court, that limits an exemption to compulsory education requirements to closely-knit, isolated religious communities violates equal protection or the establishment clauses of the United States Constitution.

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BRIEF IN OPPOSITION TO THE PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF IOWA

Respondents Benton and the Iowa State Board of Public Instruction respectfully pray that this Court deny Petitioners' request that a Writ of Certiorari issue to review the decision of the Supreme Court of the State of Iowa affirming the denial of a religious

exemption from the Iowa compulsory education requirements.

CONSTITUTIONAL PROVISION AND STATUTES

U.S. Const., amendment I:

Congress shall make no law respecting an establishment of religion or protecting the free exercise thereof: . . .

U.S. Const., amendment XIV, sec. 1:

. . . no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States: nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Iowa Code § 299.24:

Religious groups exempted from school standards. When members or representatives of a local congregation of a recognized church or religious denomination established for ten years or more within the state of

Iowa prior to July 1, 1967, which professes principles or tenets that differ substantially from the objectives, goals, and philosophy of education embodied in standards set forth in section 257.25 and rules adopted in implementation thereof, file with the state superintendent of public instruction proof of the existence of such conflicting tenets or principles, together with a list of the names, ages, and post office addresses of all persons of compulsory school age desiring to be exempted from the compulsory education law and the educational standards law, whose parents or guardians are members of the congregation or religious denomination, the state superintendent, subject to the approval of the state board of public instruction, may exempt the members of the congregation or religious denomination from compliance with any or all requirements of the compulsory education law and the educational standards law for two school years. When the exemption has once been granted, renewal of such

exemptions for each succeeding school year may be conditioned by the state superintendent, with the approval of the board, upon proof of achievement in the basic skills of arithmetic, the communicative arts of reading, writing, grammar, and spelling, and an understanding of United States history, history of Iowa, and the principles of American government, by persons of compulsory school age exempted in the preceding year, which shall be determined on the basis of tests or other means of evaluation selected by the state superintendent with the approval of the board. The testing or evaluation, if required, shall be accomplished prior to submission of the request for renewal of the exemption. Renewal requests shall be filed with the state superintendent on or before April 15 of the school year preceding the school year which the applicants desire exemption.

STATEMENT OF THE CASE

Petitioners seek review of a decision of the Iowa Supreme Court in an administrative appeal proceeding which upheld the denial of an exemption from Iowa's compulsory education requirements. The statute at issue, Iowa Code § 299.24 (1985), was before the Iowa Supreme Court for the first time. In light of the historical background of the adoption of section 299.24, the Iowa court concluded that the exemption provided by the statute was not available to any and all church groups who seek to provide for a religiously oriented education but was aimed at a much smaller target, particularly the Amish. Johnson v. Charles City Com. Sch. Bd., 368 N.W.2d 74, 82-83 (Iowa 1985). The court found that the Plaintiffs had failed to show that their children's educational needs are significantly different from those of other children and, therefore, the denial of the statutory exception was not arbitrary or capricious. Id. The Iowa court rejected the religious clause claims, utilizing this

Court's analysis in Wisconsin v. Yoder, 406 U.S. 205 (1972). Under its narrow construction of § 299.24, the Iowa Supreme Court upheld the lower court's determination that the Petitioners here were not similarly circumstanced to the Amish who have been granted the exception, thereby rejecting the Equal Protection Claim. Id. at 84-85.

REASONS FOR REJECTING THE PETITION FOR WRIT

I. THIS COURT IS WITHOUT JURISDICTION TO REVIEW A STATE SUPREME COURT DECISION ON THE GROUND THAT ITS CONSTRUCTION OF A STATE STATUTE IS "ARBITRARY."

It is axiomatic that the views of the state's highest court with respect to the construction of a state statute are binding on this Court. Wainwright v. Goode, 464 U.S. 78, 84 (1983). That principle has been followed in dozens of decisions of this Court. See e.g., Brown v. Ohio, 432 U.S. 161, 167 (1977); Garner v. Louisiana, 368 U.S. 157, 169 (1961); Des Moines Bank v. Fairweather, 263 U.S. 103, 105 (1923).

The Iowa Supreme Court took into account the historical background of section 299.24, noting that the Plaintiffs themselves referred to the statute as the "Amish exception." The Iowa court determined that Iowa's statute is aimed at groups such as the Amish who are "isolated from the mainstream of American life." Johnson, et al. v. Charles City Com. Sch. Dist., 368 N.W.2d 74, 84 (Iowa 1985). The educational needs of Amish children are quite circumscribed because of the simple rural life of the Amish. In contrast, the Plaintiffs' children will live, compete for jobs, work and move about in the diverse, complex, modern society. The weight to be given to the legislative history of a state statute is a matter of state law to be determined by the state's highest court. Exxon Corp. v. Eagerton, 462 U.S. 176, 181, n.3, (1983).

Under this Court's well-established principles, the petition for writ on the

ground that the construction of the statute is "arbitrary" has no prospect of success.

II. THIS COURT SHOULD NOT USE ITS SCARCE RESOURCES TO REVIEW A DECISION WHICH APPLIES ESTABLISHED PRECEDENT IN A CONVENTIONAL FASHION.

It would surely be a waste of scarce judicial resources to grant a writ to review a decision which so carefully applied this Court's analysis in Wisconsin v. Yoder. 406 U.S. 205 (1972). In granting the Amish petitioners an exemption from two years of high school, Chief Justice Burger observed that it was done "[i]n light of this convincing showing, one that probably few other religious groups or sects could make." Yoder, 406 U.S. at 235-236. Furthermore, this Court cited Iowa Code § 299.24 and statutes of other states with approval as examples of efforts to accommodate the Amish. Yoder, at 209. n.3.

The Iowa Supreme Court determined that nothing in Iowa law prevented the petitioners from teaching the compulsory subjects in

their own way with books and teachers of their own choice. Johnson, 368 N.W.2d at 83. In addition, the Iowa court determined that these Petitioners were not similarly circumstanced to the Amish and others for whom section 299.24 was intended to apply. Id. at 85. Narrow construction by this Court of exceptions to statutes of general application in religious and equal protection challenges demonstrate that grant of a writ in this case is not appropriate. See e.g., United States v. Lee, 455 U.S. 252 (1982) (Accommodation for self-employed Amish and others did not require exemption from social security payments by Amishman who was an employer). Gillette v. United States, 401 U.S. 437 (1971) (conscientious objector status for those who object to war in any form did not require such status for those who object to particular wars).

III. THE WRIT SHOULD NOT BE GRANTED BECAUSE REVIEW OF THE APPLICATION OF A UNIQUE STATUTE WILL NOT ELIMINATE ALLEGED CONFUSION AS TO THE MEANING OF THE TERM "COMPELLING INTEREST" IN CONNECTION WITH EDUCATION.

The petitioners argue that national "confusion" exists as to the nature of a state's compelling interest in the education of its citizens. But since Pierce v. Society of Sisters, 268 U.S. 510 (1925) was decided, the power of a state to impose compulsory education requirements has been recognized. Yoder, 406 U.S. at 213; Lemon v. Kurtzman, 403 U.S. 602, 614 (1971). None of the decisions has suggested that the fifty states must be uniform in creating and enforcing such laws. This Court has observed that the judiciary is well advised to refrain from imposing restraints on the states in connection with the structuring of their educational systems. San Antonio Ind. Sch. Dist. v. Rodriquez, 411 U.S. 1, 43 (1973). None of this Court's cases suggest that a state must design its compulsory education requirements like that of other states. Nor is there any constitutional requirement that what Iowa may view as its "compelling interests" be identical to that of Nebraska or any other state.

Review of the denial of an exemption under Iowa's unique statute will not eliminate "confusion" that exists because of the differences among educational systems in our federal system.

CONCLUSION

For all the above reasons, it is respectfully submitted that the petition for a writ of certiorari should be denied.

Respectfully submitted,

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